

Appln No. 10/647,076
Amdt date November 15, 2006
Reply to Office action of June 15, 2006

REMARKS/ARGUMENTS

Claims 1-12 remain in this application. In the June 15, 2006 Office action, the examiner rejected claims 1-4, 7, and 12-15 as obvious over Weder et al. in view of Schur. Claim 1 has been amended to incorporate the limitations of claim 15, and claims 13 and 15 have been canceled. Claim 1 now recites "a nonporous hydrophilic film comprising a material selected from the group consisting of polyvinyl alcohol and copolymers thereof." In rejecting claim 15, the examiner admits that Weder et al. fail to disclose material other than cellophane, and cites Schur for the missing teaching. However, the examiner's reliance on Schur is misplaced on at least three grounds.

First, rather than being directed to the art of *plant-cultivating containers* as is the present invention, Schur's teaching is directed to the art of *packaging and wrapping films*. See Schur, column 1, lines 8-13. According to Schur, such films are useful for packaging "[m]oisture-containing comestibles including fruit such as apples, pears, peaches, plums, grapes and bananas . . . vegetables such as carrots, potatoes, lettuce, onions radishes and celery" and "chemicals or mixtures of chemicals, for example, for bleaching powder, alkali, plating chemicals, soaps or detergents." See column 4, lines 63-69 and column 5, lines 22-25. Nowhere does Schur teach or suggest that such materials would be useful for use with plant cultivating containers. Neither do Weder et al. suggest that plant cultivating containers may be improved by looking to art directed to the field of comestible packaging or chemical packaging. In fact, any reference to Schur is irrelevant as being directed to nonanalogous art. For this reason alone, the examiner's rejection of former claim 15 is improper.

Second, even if Schur were directed to analogous art, rather than teaching a non-porous film that does not allow the passage of water, Schur teaches a vented film that is *perforated*. See FIGS. 1-5, and column 2, lines 19-27 which describe the perforations as "open-ended floorless tunnels." Schur teaches that the use of such perforated films permit the passage of gases and

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vapors while resisting the passage of solids. Column 2, lines 32-40. While Schur asserts that such films provide "[s]ubstantial resistance . . . to the passage of liquids which do not wet the film surface," (column 2, lines 38-40) it is clear that if one of Schur's perforated films were submerged in water, it would inherently permit the passage of water due to the perforations. Clearly, rather than teaching or suggesting the claimed invention which recited a "non-porous" film, Schur teaches away from the invention of former claim 15 by teaching a *perforated* film.

Third, even if Schur were directed to analogous art, and further, even if Schur taught or suggested the use of a non-porous film, the examiner's citation to Schur specifically for teaching the use of films made from polyvinyl alcohol is misplaced. In particular, while Schur teaches that films may be made of polyvinyl alcohol, the polyvinyl alcohol films taught by Schur are *water soluble* films. See column 5, lines 25-29. According to Schur, such water soluble films are useful in making packets for chemicals such as bleaching powder, alkali, plating chemicals, soaps or detergents. Column 5, lines 22-25. By using a packet made of a vented, *water soluble* film, the entire packet and its contents can be dissolved in water. Column 5, lines 29-33. In contrast to the water-soluble polyvinyl alcohol taught by Schur, the claims of the present invention are directed to polyvinyl alcohol polymers and copolymers that are *inherently insoluble* in water in that they prevent the passage of water in its liquid state. See claim 1: "the selective moisture vapor-permeable portion not allowing water to pass therethrough." In direct contrast to the claimed invention, a film made of a water soluble polyvinyl alcohol such as is taught by Schur would not only fail to *prevent* the passage of liquid water, it would *inherently encourage* the passage of liquid water. Consequently, Schur fails to teach or suggest the use of a "non-porous hydrophilic film" of an inherently insoluble polyvinyl alcohol or copolymers as claimed by former claim 15. For these reasons, claim 1, as amended to include the limitations of canceled claim 15, is allowable over the cited art, as are claims 2-7 which depend from allowable claim 1.

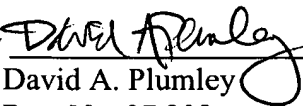
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Claims 5 and 6 stand rejected based on Weder et al. in view of Schur, but this basis for rejection is moot in view of the dependency of claims 5 and 6 on claim 1 which is allowable for the reasons set forth above.

Claims 8-11 and 16-18 stand rejected over Sakai in view of Weder et al. and further in view of Schur. It is noted that independent claims 8 and 12 have been amended to include the limitations of claims 17 and 18, respectively, and dependent claims 14 and 16-18 have been canceled. As to claims 17 and 18, the examiner again cites Schur as teaching films of polyvinyl alcohol. However, as mentioned above, Schur is improperly cited as non-analogous art. Moreover, even if Schur were properly cited, rather than teaching the invention which employs a non-porous and inherently water insoluble vapor-permeable portion of polyvinyl alcohol or copolymers thereof, Schur teaches a *perforated* and *water soluble* polyvinyl alcohol film. Neither does Sakai provide any motivation for combining Schur. Therefore, claims 8 and 12, as amended, are allowable over the cited art as are claims 9-11 which depend from allowable claim 8.

Claims 1-12 remain in this application. Applicant submits that all claims are allowable over the cited art. However, if there are any remaining issues, the examiner is asked to contact applicant's counsel at the number below.

Respectfully submitted,
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